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UTILITY PATENT APPLICATION TRANSMITTAL
(Only for new nonprovisional applications under 37 CFR 1.53(b))

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ADDRESS TO: **Assistant Commissioner for Patents**
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Washington, D. C. 20231

APPLICATION ELEMENTS

See MPEP chapter 600 concerning utility patent application contents.

1. ☒ Fee Transmittal Form
(Submit an original, and a duplicate for fee processing)
2. ☒ Specification (Total Pages 35)
(preferred arrangement set forth below)
 - Cover Sheet
 - Descriptive Title of the Invention
 - Cross References to Related Applications
 - Statement Regarding Fed sponsored R & D
 - Reference to Microfiche Appendix
 - Background of the Invention
 - Brief Summary of the Invention
 - Brief Description of the Drawings (if filed)
 - Detailed Description
 - Claims
 - Abstract of the Disclosure
3. ☒ Drawings(s) (35 USC 113) (Total Sheets 10)
4. ☒ Oath or Declaration/Power of Attorney (Total Pages 4) **Unsigned**
 - a. ☐ Newly Signed
 - b. ☐ Copy from a Prior Application (37 CFR 1.63(d))
(for Continuation/Divisional with Box 17 completed) **(Note Box 5 below)**
 - i. ☐ DELETIONS OF INVENTOR(S) Signed statement attached deleting inventor(s) named in the prior application, see 37 CFR 1.63(d)(2) and 1.33(b).
5. ☐ Incorporation By Reference (useable if Box 4b is checked)
The entire disclosure of the prior application, from which a copy of the oath or declaration is supplied under Box 4b, is considered as being part of the disclosure of the accompanying application and is hereby incorporated by reference therein.
6. ☐ Microfiche Computer Program (Appendix)
7. ☐ Nucleotide and/or Amino Acid Sequence Submission
(if applicable, all necessary)
 - a. ☐ Computer Readable Copy
 - b. ☐ Paper Copy (identical to computer copy)
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ACCOMPANYING APPLICATION PARTS

8. _____ Assignment Papers (cover sheet & documents(s))
9. _____ a. 37 CFR 3.73(b) Statement (where there is an assignee)
10. _____ English Translation Document (if applicable)
11. _____ a. Information Disclosure Statement (IDS)/PTO-1449
_____ b. Copies of IDS Citations
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13. X _____ Return Receipt Postcard (MPEP 503) (Should be specifically itemized)
14. _____ a. Small Entity Statement(s)
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☒ Continuation _____ Divisional _____ Continuation-in-part (CIP)
of prior application No: 09/131,141

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APPLICATION FOR UNITED STATES LETTERS PATENT

FOR

METHOD AND APPARATUS

FOR

**PRESERVING FRAME ORDERING ACROSS AGGREGATED LINKS
SUPPORTING A PLURALITY OF TRANSMISSION RATES**

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**METHOD AND APPARATUS FOR PRESERVING FRAME ORDERING
ACROSS AGGREGATED LINKS SUPPORTING A PLURALITY OF TRANSMISSION RATES**

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10 **BACKGROUND OF THE INVENTION**

0. **Related Applications**

15 The present application is a continuation of co-pending patent application no. 09/131,141 filed on August 7, 1998 entitled "Method and Apparatus for Preserving Frame Ordering Across Aggregated Links Between Source and Destination Nodes" by the inventors of the present invention and commonly assigned to the assignee of the present invention.

1. **Field of the Invention**

20 The present invention relates to the field of data networking and, in particular, to a method and apparatus for preserving frame ordering across aggregated links supporting a plurality of transmission rates.

2. Background Information

As computer technology has evolved, so too has the use of networks which communicatively couple computer systems together allowing remote computer systems to communicate with one another. The improved computer technology, along with the widely distributed nature of corporate computing and the cost/accessibility of high bandwidth data networks has fostered the growth of multi-media network applications over such networks. One example of just such a network topology is the Ethernet standard topology. In recent years, we have seen the Ethernet standard evolve from a 10Mb/S standard to a 100Mb/S standard as we race towards the 1Gb/S standard. Although the prospect of gigabit Ethernet technology will reduce much of the congestion experienced on current Ethernet LAN implementations, those skilled in the art recognize that the additional bandwidth will quickly be consumed by bandwidth-hungry multimedia applications. Thus, another approach is required to improve the bandwidth efficiency of such networks.

One approach currently being considered is the use of multiple physical data links to facilitate the transmission of information, a method commonly referred to as link aggregation. Those skilled in the art will appreciate that link aggregation is a technique which permits one to treat multiple physical links as one logical link, also commonly referred to as a multiple link trunk (MLT). Link aggregation is the topic of study for the Institute for Electrical and Electronic Engineers (IEEE) 802.3ad study group, which is working to define protocols for the exchange of traffic over multi-link trunks. One of the objectives of the study group is maintaining the ordering of frames. In many network protocols receiving frames out of order is likely to cause confusion. Indeed, the ramifications of processing out of order frames are often unpredictable and thus, undesirable. Similarly, the receipt of duplicate frames can also cause problems in many communication protocols. The typical solution to having received an out-of-order and/or

duplicate frame sequence is the retransmission of the entire frame sequence. Given a no-contention network architecture such as, for example, the Ethernet network wherein only one network element may be actively transmitting at a time, the need to retransmit entire frame sequences significantly reduces network efficiency.

5 To improve the efficiency of such networks, a number of solutions are currently being considered to preserve frame ordering across aggregated links, the so-called multi-link trunk. To date, proposed solutions focus on the transmit side of the communication. One proposed solution, for example, relies on tagging frames with sequence numbers at the transmit side, and removing the sequence numbers from the frames as the frames are received and promoted. Although this method is currently favored in the technical community as providing an easy
10 resolution of the problem, those skilled in the art recognize that such a solution is a costly one insofar as it involves altering the frame structure. That is, instead of simply routing frames a network bridge or switch, for example, must modify the frames to add the sequence numbers, thereby violating a number of bridging protocols. By violating such bridging protocols, a problem of backward compatibility is created, leaving legacy bridges that are unable of supporting aggregated link communication sessions.

Another problem commonly associated with prior art aggregated link control techniques arises on the transmit side when handling “flows”, i.e., a sequence of messages or frames that
have the same source, destination and quality of service requirements. Prior art switches identify
20 a flow and queue the frames identified as a flow on a single, particular link. Those skilled in the art will appreciate that queuing a flow through a single link, as done in the prior art, eliminates many of the benefits commonly associated with use of an aggregated link, e.g., maximizing throughput, load balancing, etc. due to the management required to switch the entire flow to another physical link.

SUMMARY OF THE INVENTION

In accordance with the teachings of the present invention, a method and apparatus for preserving frame ordering across aggregated links supporting a plurality of transmission rates is presented. In particular, in accordance with one embodiment of the present invention, a method for preserving frame order across an aggregated link comprised of a plurality of virtual links each supporting a particular transmission rate is presented comprising receiving up to a plurality of indications denoting commencement of frame transmission on each of the virtual links, and assigning a plurality of pointer values to a corresponding plurality of records in a pointer value buffer associated with each of the virtual links based, at least in part, on the relative order in which data frames are transmitted on each of the virtual links.

BRIEF DESCRIPTION OF DRAWINGS

The present invention will be described by way of exemplary embodiments, but not limitations, illustrated in the accompanying drawing in which like references denote similar elements, and in which:

Figure 1 illustrates a block diagram of an example data network within which the teachings of the present invention may be practiced;

Figure 2 illustrates a block diagram of an example apparatus incorporating the teachings of the present invention, in accordance with one embodiment of the present invention;

Figure 3 graphically illustrates one example of a media independent interface (MII) suitable for use by the apparatus introduced in **Figure 2**, in accordance with one embodiment of the present invention;

Figure 4 illustrates a flow chart of an example method for preserving frame ordering across an aggregated link incorporating the teachings of the present invention, in accordance with one embodiment of the present invention;

Figure 5 graphically illustrates a timing diagram of MII signaling as data is received at a network interface incorporating the teachings of the present invention, in accordance with one embodiment of the present invention;

Figure 6 illustrates a flow chart of an example method for preserving frame transmission order state information when a flow condition is detected, in accordance with one aspect of the present invention;

Figure 7 illustrates a timing diagram of MII signaling as data is received in a flow condition at a network interface incorporating the teachings of the present invention, in accordance with one embodiment of the present invention;

Figure 8 illustrates a block diagram of a data network including a network interface(s) incorporating the teachings of the present invention which interface to multi-speed communication links, in accordance with one aspect of the present invention;

Figure 9 illustrates a block diagram of a data network including a network interface(s) incorporating the teachings of the present invention which interface to an MLT providing Quality of Service (QoS) features, in accordance with one aspect of the present invention; and

Figure 10 illustrates a flow chart of an example method for improving the transmit efficiency of a network interface incorporating the teachings of the present invention, in accordance with one aspect of the present invention.

Figure 8 illustrates a block diagram of a data network including a network interface(s) incorporating the teachings of the present invention which interface to multi-speed communication links, in accordance with one aspect of the present invention;

DETAILED DESCRIPTION OF THE INVENTION

In the following description, various aspects of the present invention will be described.

However, it will be apparent to those skilled in the art that the present invention may be practiced

5 with only some or all aspects of the present invention. For purposes of explanation, specific numbers and configurations are set forth in order to provide a thorough understanding of the present invention. However, it will also be apparent to those skilled in the art that the present invention may be practiced without these specific details. In other instances, well known features are omitted or simplified for clarity.

10 In alternative embodiments, the present invention may be applicable to implementations of the invention in integrated circuits or chip sets, wireless implementations, switching systems products and transmission systems products. For purposes of this application, the terms switching systems products shall be taken to mean private branch exchanges (PBXs), central office switching systems that interconnect subscribers, toll/tandem switching systems for
15 interconnecting trunks between switching centers, and broadband core switches found at the center of a service provider's network that may be fed by broadband edge switches or access multiplexers, and associated signaling, and support systems and services. The term transmission systems products shall be taken to mean products used by service providers to provide interconnection between their subscribers and their networks such as loop systems, and which
20 provide multiplexing, aggregation and transport between a service provider's switching systems across the wide area, and associated signaling and support systems and services.

Turning to **Figure 1**, a block diagram of an example data network **100** within which the teachings of the present invention may be practiced is presented. More specifically, **Figure 1** is a block diagram depicting a data network **100** in which network device **102** is communicatively coupled to network device **104** via an aggregated link, the so-called multi-link trunk (MLT) **106**.

5 In accordance with the teachings of the present invention, a network device incorporating a network interface endowed with the teachings of the present invention preserves the transmission frame order of a plurality of frames communicated via a plurality of physical links by relying on an indication of the commencement of frame transmission. That is, unlike prior art solutions wherein the frames themselves are tagged with an indication of relative sequence at the transmit node, it will be shown that the present invention relies on standard signaling to determine when frame transmission is commenced, and the frame order is tracked and preserved by the receiving node.

Further, those skilled in the art will appreciate that the present invention for preserving frame ordering is an enabling technology leading to improved transmission techniques, receiver performance and network performance enhancements (e.g., quality of service, multi-speed links, etc.), which are all aspects of the present invention. Finally, those skilled in the art will appreciate that the innovative method of preserving frame order, to be described more fully below, may be practiced within the scope of current network communication protocol standards and specifications, thus enabling a network device endowed with the teachings of the present

invention to interface with legacy network devices. These and other aspects of the present invention will be developed more fully below.

As depicted in the illustrated example embodiment of **Figure 1**, network device **102** is coupled to network device **104** via aggregated link **106**. As described above, an aggregated link or MLT such as MLT **106** is a combination of two or more physical links comprising a single logical communication channel between two network nodes, e.g., network device **102** and network device **104**. Each physical link of MLT **106** communicates data packets (also commonly referred to as frames, datagrams, etc., depending on the OSI level of implementation) between two network devices, irrespective of the other physical links. As described above, many network protocols require that frame ordering be preserved in order to ensure the valid transmission of information between network devices. Accordingly, insofar as the physical links themselves independently communicate frames irrespective of the other links comprising the MLT, the network devices must employ some means of preserving frame ordering. Those skilled in the art will appreciate, from the description to follow, that network interface **103** and/or **105**, relying on signaling already defined within certain network standards, e.g., Ethernet standard 802, preserve frame transmission order state information by capturing the received frames in records of a buffer and assigning pointer values to the records based on order of transmission, thereby overcoming the need of prior art solutions to tag each individual frame with a sequence number at the transmitting node, or sending flows on a particular dedicated link.

With continued reference to data network **100** depicted in **Figure 1**, those skilled in the art will appreciate data network **100** depicting only two nodes has been simplified for ease of explanation and so as to not obscure the teachings of the present invention. That is, those skilled in the art will appreciate that data network **100** is typically comprised of a number of network devices such as, for example, routers, hubs, servers, switches and the like utilized to route data packets through the network to their respective destinations. Thus, data network **100** of **Figure 1** is intended to represent any of a number of alternative network architectures incorporating switches, routers, and the like (not shown) that are commonly used to establish and support data communication between network edge devices such as, for example, network devices **102** and **106**. In this respect, data network **100** may well be a Local Area Network (LAN), a Wide Area Network (WAN) network architecture, and the like. In one embodiment, for example, data network **100** is an Ethernet standard network providing 10Mb/s, 100Mb/s or 1Gb/s data rates. Similarly, except for the innovative method of preserving frame order, optimizing transmission and receiver performance, and other aspects of the present invention, network devices **102** and **106** are intended to represent any of a number of alternative routers, switches, hubs, servers, and the like commonly known within the data networking art.

Having described the operating environment within which the teachings of the present invention may be practiced with reference to **Figure 1**, a block diagram of an example network interface incorporating the teachings of the present invention will be introduced with reference to **Figure 2**.

Turning to **Figure 2**, a block diagram of an example network interface incorporating the teachings of the present invention is depicted. In one embodiment of the present invention, network interface **200** is beneficially introduced to network device **102** and/or network device **104** as network interface **103** and/or **105**, respectively. In accordance with the illustrated example embodiment of **Figure 2**, network interface **200** is communicatively coupled to a data network via a multi-link trunk, e.g., MLT **106**, as well as data terminal equipment (DTE) (not shown) via bus **222**. As shown, network interface **200** is depicted comprising a plurality of physical medium interfaces (PHY) **202**, **204**, **206** and **208** each coupled to an associated medium access controller **210**, **212**, **214** and **216**, respectively, which are coupled to a Multiplexer/DeMultiplexer (MUX/DeMUX) **218**, as shown. In accordance with one embodiment of the present invention, MUX/DeMUX **218** is coupled to one or more buffer(s) **220** which may be used as transmit buffers or receive buffers. In accordance with one embodiment of the present invention, the number of physical medium interfaces **202-208** corresponds to the number of physical links comprising the multi-link trunk **106**, and the number of MACs **210-216** correspond to the number of PHYs **202-208**. Accordingly, the MUX/DeMUX **218** multiplexes frames to/from the plurality of physical links of MLT **106** via a corresponding MAC and PHY.

As defined herein, the physical medium interface (PHY) **202-208** provides the physical and electrical interface between network interface **200** and the multi-link trunk **106** using any of a number of medium attachment units (MAU) known in the art (e.g., tap connector, BNC “T”, and the like). In one embodiment, PHY **202-208** is responsible for encoding/decoding data in

accordance with the transmission protocol of MLT 106. That is, in its function as a receiver, PHY 202-208 decodes an encoded transmission received from a physical link of MLT 106 for presentation to MAC 210-216, and the DTE respectively. Conversely, in its function as transmitter, PHY 202-208 encodes frames received from the DTE by way of MAC 210-216 for transmission via a corresponding physical link of MLT 106. In one embodiment, PHY 202-208 employs a Manchester encoder/decoder. In an alternate embodiment, PHY 202-208 employs a Viterbi encoder/decoder. In yet another embodiment, an 8B/10B encoding scheme is employed to facilitate gigabit Ethernet over fiber. Irregardless of the encoding technique employed, PHY 202-208 employs a media independent interface (MII) protocol to communicate with MAC 210-216. Those skilled in the art will appreciate that the MII defines a set of communication signals and protocols for communication between MAC 202-208 and PHY 210-216, respectively. That is, MII enables MACs to communicate with any of a number of alternate PHYs adhering to the MII protocol. One example of an MII between MAC 202-208 and PHY 210-216 is depicted with reference to Figure 3.

Turning, briefly, to Figure 3 an example media independent interface (MII) 306 is shown coupling physical medium interface 302 with media access controller 304. As depicted, MII 306 is comprised of a number of receive signals, transmit signals and control signals. In accordance with the illustrated example embodiment of Figure 3, MII 306 is shown comprising receive clock (RX_CLK) 308, receive error (RX_ERR) 310, receive data valid (RX_DV) 312, receive data (RX_D) 314, carrier sense (CRS) 316, transmit data (TX_D) 318, transmit error (TX_ER)

320, transmit enable (TX_EN) 324 and transmit clock (TX_CLK) 326 signals. As used herein, the label of transmit and receive are relative to MAC 304, thus, RX_D signal 314 provides data transmitted from PHY 302. In one embodiment, RX_D signal 314 is a nibble-wide (e.g., four bit) signal, while in an alternate embodiment, RX_D signal 314 an eight-bit (e.g., an octet wide) signal.

Except as used in accordance with the teachings of the present invention, to be described more fully below, the function of each of the MII signals 308-326 of are generally well known in the art and, thus, need not be further described here. Of particular interest with respect to the teachings of the present invention, however, is the receive data valid signal RX_DV 312. Those skilled in the art will appreciate that RX_DV signal 312 is asserted by PHY 302 to indicate that valid data decoded from the physical medium is being presented on RX_D 314. More specifically, PHY 302 asserts RX_DV signal 312 to denote to MAC 304 that frame transmission has commenced, and that the frames presented on RX_D 314 are valid (e.g., do not contain errors). In accordance with the teachings of the present invention, RX_DV 312 is asserted any time during or immediately after a preamble of the transmitted frame. That is, the RX_DV signal 312 provides an indication to the MAC that frame transmission has commenced on a physical link associated with the PHY asserting the RX_DV signal. In accordance with one embodiment of the present invention, the RX_DV signal 312 is an analog signal that is asserted upon detecting valid data, and remains asserted throughout transmission of the frame. Thus, in accordance with the teachings of the present invention to be developed more fully below,

network interface **200** utilizes the indication provided by the assertion of RX_DV signal **312** associated with each PHY to determine frame transmission order.

Returning to the illustrated example embodiment of **Figure 2**, MACs **210-216** interface the data terminal equipment (DTE) with data network **100** via the physical interface (PHY) **202-208**. Accordingly, MACs **210-216** transmit and receive messages to/from the DTE, perform message encapsulation and control (framing, addressing, synchronization, error detection, etc.) as well as media access management functions (collision avoidance, contention resolution, etc.). In accordance with the illustrated example embodiment of **Figure 2**, a single MAC (e.g., MAC **210**) is associated with a single PHY (e.g., PHY **202**) and corresponding physical link of the MLT. In accordance with the illustrated example embodiment of **Figure 2**, MACs **210-216** are coupled to MUX/DeMUX **218**. As will be described in greater detail below, the MUX/DeMUX layer **218** receives frames of information to be transmitted from the DTE in a transmit buffer **220** and distributes the frames to MACs **210-216**. Conversely, MUX/DeMUX **218** receives decoded frames received from MACs **210-216** and promotes them from a receive buffer **220** to a system state at the DTE in a serialized manner via bus **222**. Those skilled in the art will appreciate, from the description to follow, that MUX/DeMUX **218** may well be found in any of a number of alternate forms with alternate names. In one embodiment, for example, the function of MUX/DeMUX **218** is embodied in a logical MAC (LMAC) supporting a plurality of physical MACs (PMAC), e.g., MAC **210-216**. In an alternate embodiment, the MUX/DeMUX function is embodied in an aggregated MAC (AMAC) supporting a plurality of physical MACs. Those

skilled in the art will recognize that, although different in name, the teachings of the present invention may be practiced in a variation of forms without deviating from the spirit and scope of the present invention.

In accordance with the teachings of the present invention, the order in which a received frame is promoted from receive buffer **220** corresponds to the relative order in which the RX_DV signal **312** associated with the particular frame is received. In one embodiment, to be described more fully below, further optimization of the receive function can be achieved by detecting “flow” conditions. That is, in accordance with one aspect of the present invention, network interface **200** identifies a flow condition, and allocates specific resources (e.g., receive buffers, pointer buffers, etc.) to handle the flow, thereby reducing the processing required to ensure frame ordering.

Having introduced an example operating environment, hardware architecture and communication interface associated with the teachings of the present invention with reference to the block diagrams of **Figures 1** through **3**, attention is now directed to **Figure 4** wherein a flow chart of an example method for preserving frame ordering is presented, in accordance with one embodiment of the present invention. For ease of explanation, and not limitation, the example embodiment of **Figure 4** will be developed with continued reference to **Figures 1-3**, wherein network device **102** is the source node utilizing a number of physical links of MLT **106** to communicate with network device **104**, the destination node.

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Turning to the method of **Figure 4**, the method begins with source node **102** commencing transmission of up to a plurality of frames over a plurality of physical links comprising MLT **106**. Upon detecting the commencement of frame transmission on any of the physical links comprising MLT **106**, the PHY **202-208** of the destination node network interface **105** corresponding to the physical link with transmission activity asserts an RX_DV signal **312**. That is, once PHY **202**, for example, detects valid data transmission via a corresponding physical link, PHY **202** asserts an RX_DV signal **312**, i.e., an indication of the commencement of frame transmission, to MAC **210** at **402** denoting that valid receive data is being received on RX_D **314**. As MAC **210** receives the RX_DV signal **312**, it provides an indication to MUX/DeMUX **218** of the incoming frame which generates a pointer in a pointer buffer **220** associated with the frame, **404**. MAC **210** receives the transmitted frame (a nibble, byte, word, etc. at a time) via RX_D **314**. Consequently, by generating a pointer list associated with the assertion of RX_DV signals, MUX/DeMUX **218** preserves the state of frame transmission order without unnecessarily modifying the content of the transmitted frames as done in the prior art. At **406**, a determination is made of whether the incoming frame is completely received. If not, a further determination is made at **408** of whether another incoming frame has been detected on another physical link. If so, the process continues with **402** as the next frames are received, otherwise, the process continues with block **406** until the frame is completely received.

Once a frame is completely received, a determination is made as to whether the received frame corresponds to the first pointer value in the pointer buffer, **410**. If not, the frame is stored

to the next available record in the receive buffer, **412**. If, however, the received frame does correspond to the first pointer value in the pointer buffer, the frame is promoted to the system state at the DTE, and the pointer buffer is incremented to the next pointer value record, **414**. At **416**, MUX/DeMUX **218** determines whether the pointer buffer is empty and, if so, the process returns to block **402**. If the pointer buffer is not empty, the process continues at **418** wherein MUX/DeMUX **218** determines whether the frame corresponding to the next pointer value record in the pointer buffer has been completely received. If not, the process continues with block **406**. If, however, MUX/DeMUX **218** determines that the frame corresponding to the next pointer value in the pointer buffer has been received, the process continues with block **414**.

Although discussed above as separate buffers, those skilled in the art will appreciate that the pointer values and the frames themselves may well be stored in a common buffer without deviating from the spirit and scope of the present invention. That is to say that the innovation of preserving state information of the order of frame transmission on the receive side by relying on network standard signaling which denotes the commencement of frame transmission, assigning a pointer value to identify the received frame, and then promoting the frames to a system state in order of pointer value may well be practiced in many different forms in many different network architectures/topologies without deviating from the spirit and scope of the present invention. Accordingly, such embodiments are anticipated by the teachings of the present invention.

Having described an example architecture and method of certain embodiments of the present invention above, it may be helpful to illustrate the operation of the present invention in

terms of a timing diagram, such as that presented in **Figure 5**. That is, **Figure 5** provides a timing diagram depicting RX_DV **312** and RX_D **314** for three (3) physical links (A, B, and C), along with a graphical illustration of an example pointer buffer and an example receive buffer, respectively.

5 In accordance with the illustrated embodiment of **Figure 5**, transmission from source node **102** begins on physical link C as denoted by the assertion of RX_DV_C **510** at position **514**. As described above, the assertion of RX_DV_C **510** denotes that a valid frame (C₁) is being received on RX_D_C **512**. Thus, in accordance with the teachings of the present invention, a pointer to frame C₁ is placed in pointer value buffer **538**. As frame C₁ is being received, an indication is received in the form of RX_DV_A **502** that a valid frame (A₁) is being received on RX_D_A **504** at position **516**. As above, in accordance with the teachings of the present invention, a pointer to frame A₁ is placed in a subsequent record of pointer value buffer **538**. Further, as frame C₁ is being received, an indication is received in the form of RX_DV_B **506** that a valid frame (B₁) is being received on RX_D_B **508** at position **518**. In accordance with the teachings of the present invention, a pointer associated with frame B₁ is stored in a subsequent record of pointer buffer **538**.

Continuing along the timing diagram, at position **520**, as frames B₁ and A₁ are still being received via their respective links, frame C₁ is completely received without receiving an error (e.g., RX_ER). In accordance with the teachings of the present invention, insofar as the pointer to frame C₁ resides atop pointer buffer **538** it is promoted to a system state at the DTE once it is

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completely received. As the pointer value to frame C₁ is promoted from pointer buffer **538**, the pointer associated with frame A₁ now resides atop pointer value buffer. At position **522**, frame B₁ is completely received and stored in a subsequent record of receiver buffer **540**, as shown. However, in accordance with the teachings of the present invention, frame B₁ is not promoted until frame A₁ has been promoted, insofar as the pointer value for frame A₁ has a higher priority within the pointer buffer.

At position **524**, while frame A₁ is still being received, an indication is received from RX_DV_B **506** that a valid frame (B₂) is being received via RX_D_B **508**. Thus, in accordance with the teachings of the present invention, a pointer value corresponding to frame B₂ is placed in a subsequent record of pointer buffer **538**. While frame B₂ is being received, an indication is received from RX_DV_C **510** at position **526** that a valid frame (C₂) is being received via RX_D_C **512**. Accordingly, a pointer value corresponding to frame C₂ is placed in a subsequent record of pointer value buffer **538**. At position **528**, while A₁ and C₂ are being received, frame B₂ is completely received without indication of error and is stored in a subsequent record of receiver buffer **540**, as depicted. As above with respect to frame B₁, although frame B₂ has been completely received, it cannot be promoted to the upper layer until frames A₁ and B₁ are promoted.

Subsequently, while frames A₁ and C₂ are being received, an indication is received in the form of RX_DV_B **506** that a valid frame (B₃) is being received on RX_D_B **508** at position **530**.

In accordance with the teachings of the present invention, a pointer value to frame B₃ is placed in

a subsequent record of pointer value buffer **538**, as depicted. At position **534**, while frames A₁ and C₂ are still being received, frame B₃ is completely received without indication of error, and is stored to a subsequent record of receive buffer **540**, as shown. As above, frame B₃ cannot be promoted until the frames corresponding to pointer values ahead of the pointer value corresponding to B₃ are promoted. At position **532**, frame C₂ is completely received without indication of error and is stored to a subsequent record of receive buffer **540**, as shown. Finally, at position **536**, frame A₁ is completely received without indication of error and is stored in a subsequent record of receive buffer **540** as shown.

In accordance with the teachings of the present invention, since the pointer to frame A₁ is at the top of pointer buffer **538** once the frame is completely received at position **536**, it is promoted to a system state with DTE. Further, since frames B₁, B₂, C₂ and B₃ have also been previously received and stored within receive buffer **540**, they are similarly promoted in the order in which frame transmission commenced, as denoted in pointer buffer **538**. Thus, rather than altering the content of the frame to denote a sequence number as done in the prior art, a network interface employing the teachings of the present invention relies on an indication of the commencement of frame transmission to preserve the state of frame order transmission. That is, frames are promoted to upper layers in order of frame transmission as recorded by the receiving node relying on standard signaling denoting the commencement of frame transmission.

Having described a method and apparatus for preserving the order of frame transmission above with reference to **Figures 1-5**, a flow chart of an example method for improving the

receive performance of a network interface is depicted in **Figure 6**, in accordance with one embodiment of the present invention. With reference to **Figure 6**, a network interface incorporating the teachings of the present invention, e.g., network interface **300**, receives up to a plurality of indications denoting the commencement of frame transmission over an MLT, **602**.

5 At **604**, a determination is made as to whether the received frames constitute a subset of a flow, i.e., a sequence of messages that have the same source, destination and quality of service requirements. In one embodiment, the DeMUX layer **218** identifies a flow by analyzing control information embedded within a frame to identify the source, destination, quality of service, and other similar information. If, at **604**, it is determined that the received frames do not constitute a flow, the method proceeds to assign pointer values and store received frames until they can be promoted, on a per frame basis, as described above with reference to **Figure 4**, at **606**.

Alternatively, if a flow is detected at **604**, DeMUX layer **218** allocates specific resources to enable the frames to be processed through to the DTE without further re-ordering at the network interface, **608**. That is, recognizing that some protocols are not adversely impacted by out of order transmission (e.g., certain implementations of TCP/IP), the DeMUX layer **218** identifies such frames and passes them through to the DTE without regard to frame order, thereby increasing the receive forwarding rate and reducing the processing associated with buffering such frames. As described above with reference to **Figure 4**, a determination is made at **610**, on a per frame basis, of whether transmission is complete or the pointer buffer is empty.

20 If transmission on a per frame basis is complete, frames are read from the receive buffer as

described above in **Figure 4, 612**. Alternatively, if transmission is not complete, a further determination is made, **611**, of whether frame transmission on another physical link has been detected. If transmission of another frame has commenced, the process continues with block **602**, while transmission of the former frame is completed. If, however, no addition indications of frame commencement are received, the process continues with bloc **610** until the frame is completely received.

At **614**, a determination is made by MUX/DeMUX **218** of whether the pointer buffer is empty and, if so, the process continues with block **602**, as the MUX/DeMUX **218** awaits further indication(s) of the commencement of frame transmission via MLT **106**. Alternatively, if the pointer buffer is not complete, the process returns to block **612** as the next record is read from the receive buffer and promoted to the DTE, as described above.

Thus, in accordance with one aspect of the present invention, a network interface incorporating the teachings of the present invention enhances the receive efficiency of a flow by determining whether the flow is sensitive to out-of-order frame sequences and, if not, passes the frames directly through to the DTE without the need of buffering. Expanding on the teachings of the present invention, described above, an improved method for handling flows is now presented, in accordance with another aspect of the present invention. That is, in accordance with one aspect of the present invention, a destination node incorporated with the teachings of the present invention, e.g., network device **104**, creates and maintains a separate pointer buffer dedicated to each detected flow, while continuing to utilize a common receive buffer. In accordance with this

aspect of the present invention, all frames associated with a particular flow have pointers set up in a dedicated pointer buffer in the order in which frame transmission commenced. When a frame has been completely received at the receiver, if it is the first pointer in a particular pointer buffer, it is passed to the upper layer without regard to the frames associated with other pointer buffers. By maintaining separate pointer buffers (or link lists) for each flow, frames from one flow do not have to wait for frames from other flows to arrive before they are promoted to an upper layer. Those skilled in the art will appreciate that a further advantage of the present invention is that if a physical link were to go down, the frames can be distributed on the remaining links without the need to flush transmit queues before transmission can resume. A timing diagram illustrating this aspect of the present invention is presented with reference to

Figure 7.

Turning to **Figure 7**, a timing diagram of illustrating the RX_DV signals **702, 706, 710** and RX_D **704, 708, 712** signals for three physical links (1, 2 and 3) are depicted. In addition, **Figure 7** also depicts pointer buffers **714, 716** and **718** created upon the detection of flows A, B and C, respectively, and receive buffer **720**. As shown in **Figure 7**, individual pointer values are assigned to frames upon receiving an indication of the commencement of frame transmission and determining whether the incoming frame corresponds to a flow. In one embodiment, a minimal amount of data must first be received before it is determined that the incoming frame is associated with a particular flow, before a pointer value is assigned to the incoming frame. In an alternate embodiment, however, a pointer value is assigned based, at least in part, on a physical

link upon which a known flow condition is present. In addition, frames are promoted from receive buffer **720** in pointer value order, as stored in pointer buffers **714**, **716** and **718**. Thus, frames B_1 and C_1 are immediately promoted upon receipt without regard to frame A_1 . A_2 , however, must wait until frame A_1 has been completely received and promoted before it may be promoted, in accordance with the teachings of the present invention described above. In this way, the load balancing and efficient transmission characteristics commonly associated with aggregated link technology can be realized, while preserving the state of frame transmission order for a plurality of identified flows, without resorting to dedicated links, or altering the frame to denote transmission sequence.

A further aspect of the present invention is illustrated with reference to the network depicted in **Figure 8**. As depicted in **Figure 8**, network device **102** having network interface **103** is communicatively coupled to network device **104** having network interface **105** via MLT **106**, much as in **Figure 1**. In accordance with this aspect of the present invention, however, the physical links of the MLT **106** are split into high-speed links **802** and low-speed links **804**. As depicted, high-speed links **802** are comprised of physical links **806**, **807** and **808**, while low speed links are depicted as **810** and **811**. In accordance with this aspect of the invention, a network interface incorporating the teachings of the present invention (e.g., network interface **103** and/or network interface **105**) creates a separate pointer buffer for the high-speed links **802** and the low speed links **804**. That is, as shown in **Figure 8**, a network interface incorporating the teachings of the present invention, employs high-speed pointer buffer **812** and low-speed pointer

buffer **814** to maintain separate link lists of pointers values corresponding to frames stored in receive buffer **816**. In accordance with this aspect of the present invention, frames are promoted from receive buffer **816** in order of pointer value with priority given to pointer values in high-speed pointer buffer **812** over low-speed pointer buffer **814**. In one embodiment, for example, frames corresponding to pointer values residing in low-speed pointer buffer **814** are not promoted until high-speed pointer buffer **812** is completely empty, i.e., receive buffer **816** is void of any frames received via one of high-speed links **802**.

Extending this concept further, another aspect of the present invention emerges as the teachings of present invention preserve the state of frame transmission order enabling Quality of Service (QoS) features. As depicted in **Figure 9**, network device **102** with network interface **103** is communicatively coupled to network device **104** with network interface **105** via MLT **106** offering physical links associated with three distinct QoS priority levels. More specifically, MLT **106** offers a high priority QoS link **902**, a medium priority QoS link **904** and a low priority QoS link **906**. In accordance with the teachings of the present invention, described more fully above, a network interface incorporating the teachings of the present invention, e.g., **103** and/or **105**, establishes a pointer buffer for each of the QoS links **902-906**. That is, in accordance with the teachings of the present invention, a high priority QoS pointer buffer **908**, a medium priority QoS pointer buffer **910** and a low priority QoS pointer buffer **910** are established to preserve the state of frame transmission order of received frames. In one embodiment of the present invention, frames are promoted to the DTE from receive buffer **914** in order of pointer value, with priority

given to high priority QoS pointer buffer **908**, while frames associated with pointer values are promoted from medium and low priority QoS pointer buffers **910** and **912**, once higher priority frames have been processed.

Given the foregoing discussion associated with **Figures 1-9**, those skilled in the art will appreciate that a number of different aspects and embodiments of the present invention have been introduced. Although developed in the context of example embodiments, those skilled in the art will appreciate that the scope of the present invention is not so limited. For example, in addition to preserving frame transmission order state information at the receive side, those skilled in the art will appreciate that the teachings of the present invention may well be applied to improving the transmission characteristics of a network interface incorporating the teachings of the present invention. That is, in accordance with yet another aspect of the present invention, transmit performance is improved through transmit queue optimization of an appropriately configured network interface, e.g., network interface **103** and/or network interface **105**.

Turning to **Figure 10**, a flow chart of an example method for enhancing the transmit efficiency of a network device incorporating the teachings of the present invention is depicted, in accordance with one aspect of the present invention. As depicted in **Figure 7**, the method begins wherein MUX **218** receives frames from the DTE for transmission over MLT **106** of data network **100, 1002**. At **1004**, MUX **218** identifies the transmit performance attributes of each of MACs **210-216**. In accordance with one aspect of the present invention, instead of simply alternating through MACs **210-216** in a round-robin fashion queuing frames to be transmitted,

MUX 218 makes a qualitative determination of how loaded each of the MACs 210-216 are. In one embodiment, for example, MUX 218 employs a counter to determine the amount of data queued in each MAC 210-216 for transmission, and performs load balancing accordingly. In an alternate embodiment, wherein multi-speed links are employed in MLT 106, MUX 218 employs a counter to determine the amount of data queued in each MAC 210-216 and multiplies this value by the known speed of each link to calculate a loading value for each queue. Given the loading value for each queue, MUX 218 balances the among each MAC 210-216 accordingly. In yet another embodiment, MUX 218 detects a flow condition (as described above) coming from a DTE and directs all frames associated with the flow to a MAC designated as having the least queue depth, thereby minimizing frame delays.

Having identified the transmit performance attributes of each MAC 210-216, MUX 218 further determines whether the frames received from the DTE require a particular priority level of service, e.g., Quality of Service (QoS) level, 1006. If not, MUX 218 performs load balancing of the frames to be transmitted, balancing the frames across available MACs 210-216 in accordance with the identified transmit performance attributes of the MACs 210-216, 1008.

Alternatively, if a particular QoS is requested at block 1006, MUX 218 makes a further determination of whether the QoS can be supported, 1010. If not, MUX 218 prompts the DTE as to whether to continue transmission of the frames on a best-effort basis 1012. If so, MUX 218 performs load balancing across the MACs 210-216 in accordance with the identified transmit

performance attributes **1008**. If the DTE does not accept the offer of best effort transmission at **1012**, MUX **218** denies the transmit request of the DTE and the process ends.

If, at block **1010**, the requested QoS can be supported, MUX **218** performs load balancing to achieve the desired QoS, block **1014**. In one embodiment, for example, MUX **218** prioritizes the frames ahead of other frames to ensure that the requested QoS is met. In an alternate embodiment, MUX **218** dedicates transmission resources to ensure that the requested QoS is achieved.

While various aspects and alternate embodiments of the present invention have been described above, those skilled in the art will recognize that the invention is not limited to the embodiments described. The present invention can be practiced with modification and alteration within the spirit and scope of the appended claims. In particular, the present invention may be practiced with other features and/or feature settings. Particular examples of other features include but are not limited to transaction communication protocols and architectural attributes. Accordingly, the description is to be regarded as illustrative instead of restrictive on the present invention.

Thus, alternative methods and apparatus for preserving frame ordering across aggregated links supporting a plurality of transmission rates has been described.

CLAIMS

What is claimed is:

1. A method for preserving frame order across an aggregated link comprised of a plurality of virtual links each supporting a particular transmission rate, the method comprising:
 - (a) receiving up to a plurality of indications denoting commencement of frame transmission on each of the virtual links; and
 - (b) assigning a plurality of pointer values to a corresponding plurality of records in a pointer value buffer associated with each of the virtual links based, at least in part, on the relative order in which data frames are transmitted on each of the virtual links.
2. The method of claim 1, further comprising:
 - (c) receiving the data frames transmitted on each of the plurality of virtual links in a common receive buffer.
3. The method of claim 2, further comprising:
 - (d) reading the received frames from the common receive buffer based, at least in part, on the pointer value assigned in each of the pointer value buffers.
4. The method of claim 3, wherein frames are promoted from the receive buffer with priority given to pointer value order in higher transmission rate pointer value buffers.

- 1 5. The method of claim 1, wherein a plurality of pointer value buffers are used to store
2 pointer values denoting the commencement of transmission of frames on a corresponding
3 plurality of virtual links supporting a particular transmission speed.
- 1 6. The method of claim 1, wherein received frames are promoted in pointer value order with
2 priority given pointer values stored in the pointer value buffers associated with higher
3 transmission rate virtual links.
- 1 7. The method of claim 1, wherein the indication is an analog indication.
- 1 8. The method of claim 7, wherein the data network is an Ethernet network and the
2 indication is a receive data valid (RX_DV) signal.
- 1 9. The method of claim 1, wherein the order of pointer values in each of the pointer value
2 buffers do not correspond to the order of frame transmission.
- 1 10. An apparatus comprising:
2 a receive buffer having a plurality of records in which to store received frames of data;
3 a plurality of pointer value buffers each associated with one of a plurality of virtual links
4 of an aggregated link, each of the virtual links supporting a distinct transmission speed; and
5 a network interface, coupled to the receive buffer and the pointer value buffers, to assign
6 a plurality of pointer values in appropriate ones of the plurality of pointer value buffers in
7 response to the commencement of transmission of frames on the associated virtual link.

- 1 11. The apparatus of claim 10, wherein frames transmitted over each of the virtual links are
2 stored in the common receive buffer until retired by the apparatus.
- 1 12. The apparatus of claim 10, wherein the indication is an analog indication.
- 1 13. The apparatus of claim 12, wherein the indication is an asserted receive data valid signal.
- 1 14. The apparatus of claim 10, wherein the network interface retires the received frames from
2 the receive buffer to a system state in order of pointer value in each of the plurality of pointer
3 value buffers.
- 4 15. The apparatus of claim 14, wherein the frames are retired in pointer value order for each
5 of the plurality of pointer value buffers, with priority given to pointer value buffers associated
6 with higher transmission rate virtual links.
- 7 16. In a data network, a method for preserving frame order of a plurality of frames
8 transmitted across a plurality of virtual links of a multi-link trunk, wherein each of the virtual
9 links is associated with a discrete transmission rate, the method comprising:
- 4 (a) receiving up to a plurality of indications denoting commencement of frame
5 transmission on each of the virtual links of the multi-link trunk; and
- 6 (b) assigning a plurality of pointer values to a plurality of records corresponding to a
7 number of indications received from each of the virtual links in appropriate ones of a plurality of
8 pointer value buffers associated with the plurality of virtual links based, at least in part, on a
9 relative order in which the indications are received.

1 17. The method of claim 16, further comprising promoting the received frames from a
2 common receive buffer in pointer value order of the pointer value buffers, with priority given to
3 the pointer value buffers associated with the higher transmission rate virtual links.

1 18. The method of claim 16, wherein the indications are an analog signal denoting receive
2 data valid.

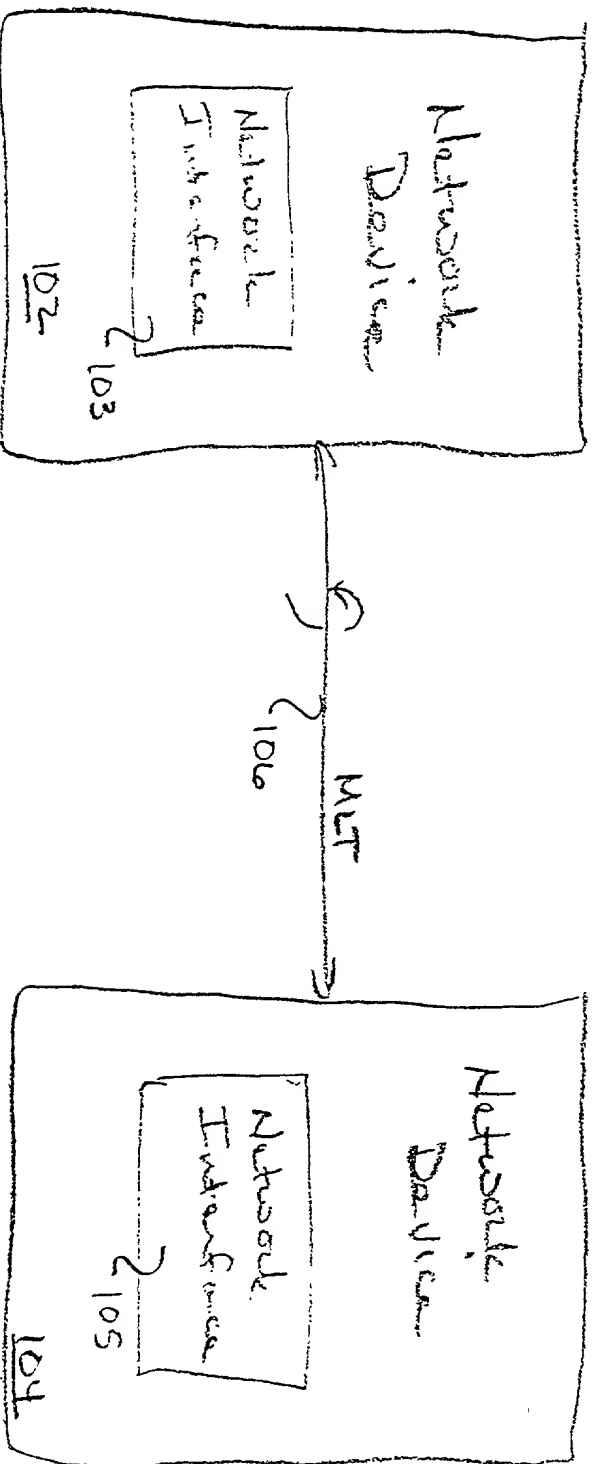
1 19. A storage medium comprising a plurality of executable instructions which, when
2 executed by a processor, cause the processor to implement a plurality of functions including a
3 function to preserve frame order of frames transmitted over a plurality of virtual links each
4 associated with a discrete transmission rate, the function implementing pointer value buffers
5 associated with each of the virtual links and, upon receiving an indication from the virtual link,
6 stores pointer values in appropriate ones of the pointer value buffers denoting commencement of
7 frame transmission on the virtual link.

1 20. The storage medium of claim 19, wherein the executable instructions further include
2 instructions to promote data frames received in a common buffer from the plurality of virtual
3 links in pointer value order as stored in the pointer value buffers, with priority given to pointer
4 values stored in pointer value buffers associated with higher transmission rates.

	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100
1	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100
2	2	4	6	8	10	12	14	16	18	20	22	24	26	28	30	32	34	36	38	40	42	44	46	48	50	52	54	56	58	60	62	64	66	68	70	72	74	76	78	80	82	84	86	88	90	92	94	96	98	100	102	104	106	108	110	112	114	116	118	120	122	124	126	128	130	132	134	136	138	140	142	144	146	148	150	152	154	156	158	160	162	164	166	168	170	172	174	176	178	180	182	184	186	188	190	192	194	196	198	200
3	3	6	9	12	15	18	21	24	27	30	33	36	39	42	45	48	51	54	57	60	63	66	69	72	75	78	81	84	87	90	93	96	99	102	105	108	111	114	117	120	123	126	129	132	135	138	141	144	147	150	153	156	159	162	165	168	171	174	177	180	183	186	189	192	195	198	201	204	207	210	213	216	219	222	225	228	231	234	237	240	243	246	249	252	255	258	261	264	267	270	273	276	279	282	285	288	291	294	297	300
4	4	8	12	16	20	24	28	32	36	40	44	48	52	56	60	64	68	72	76	80	84	88	92	96	100	104	108	112	116	120	124	128	132	136	140	144	148	152	156	160	164	168	172	176	180	184	188	192	196	200	204	208	212	216	220	224	228	232	236	240	244	248	252	256	260	264	268	272	276	280	284	288	292	296	300																									
5	5	10	15	20	25	30	35	40	45	50	55	60	65	70	75	80	85	90	95	100	105	110	115	120	125	130	135	140	145	150	155	160	165	170	175	180	185	190	195	200	205	210	215	220	225	230	235	240	245	250	255	260	265	270	275	280	285	290	295	300																																								
6	6	12	18	24	30	36	42	48	54	60	66																																																																																									

5

FIG. 1



100

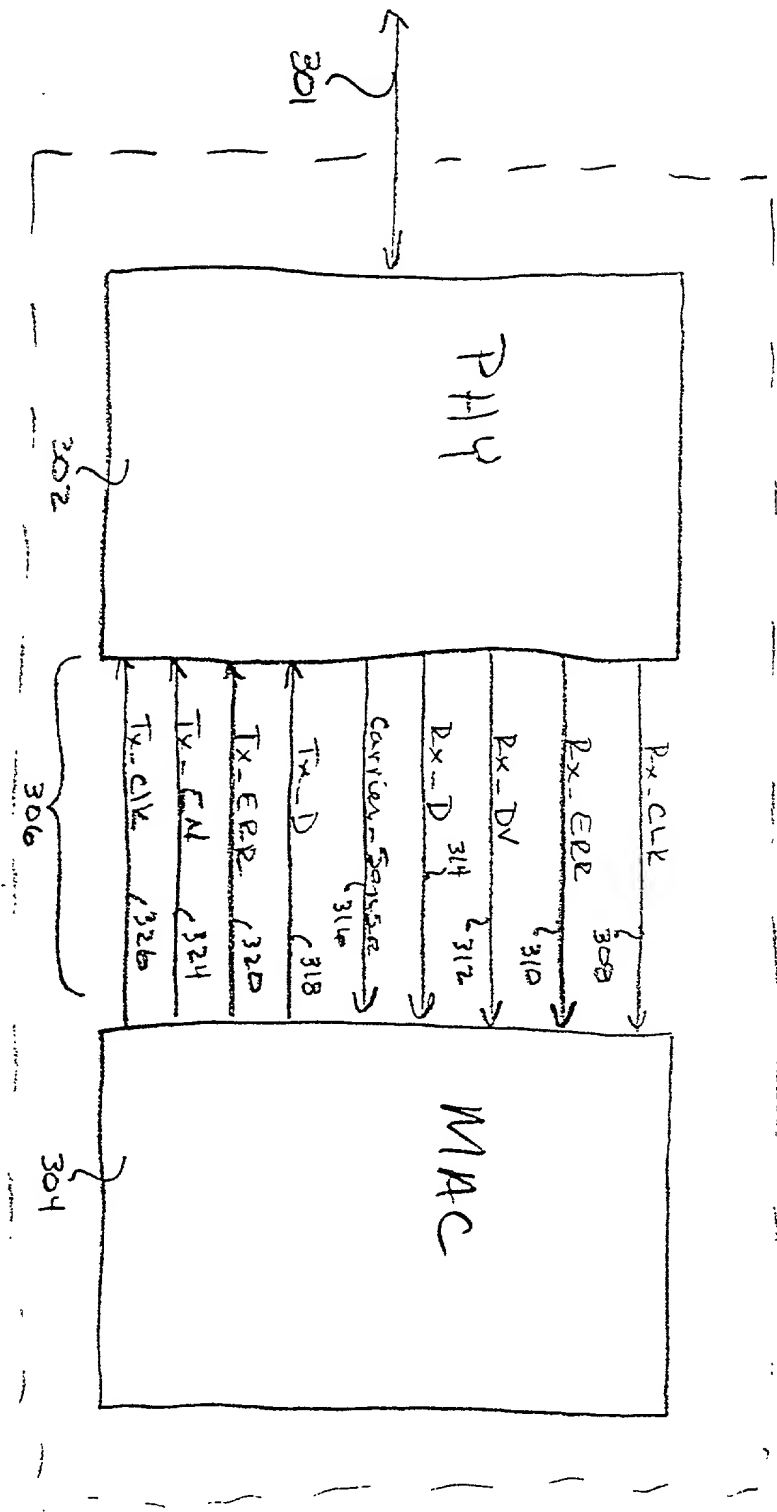
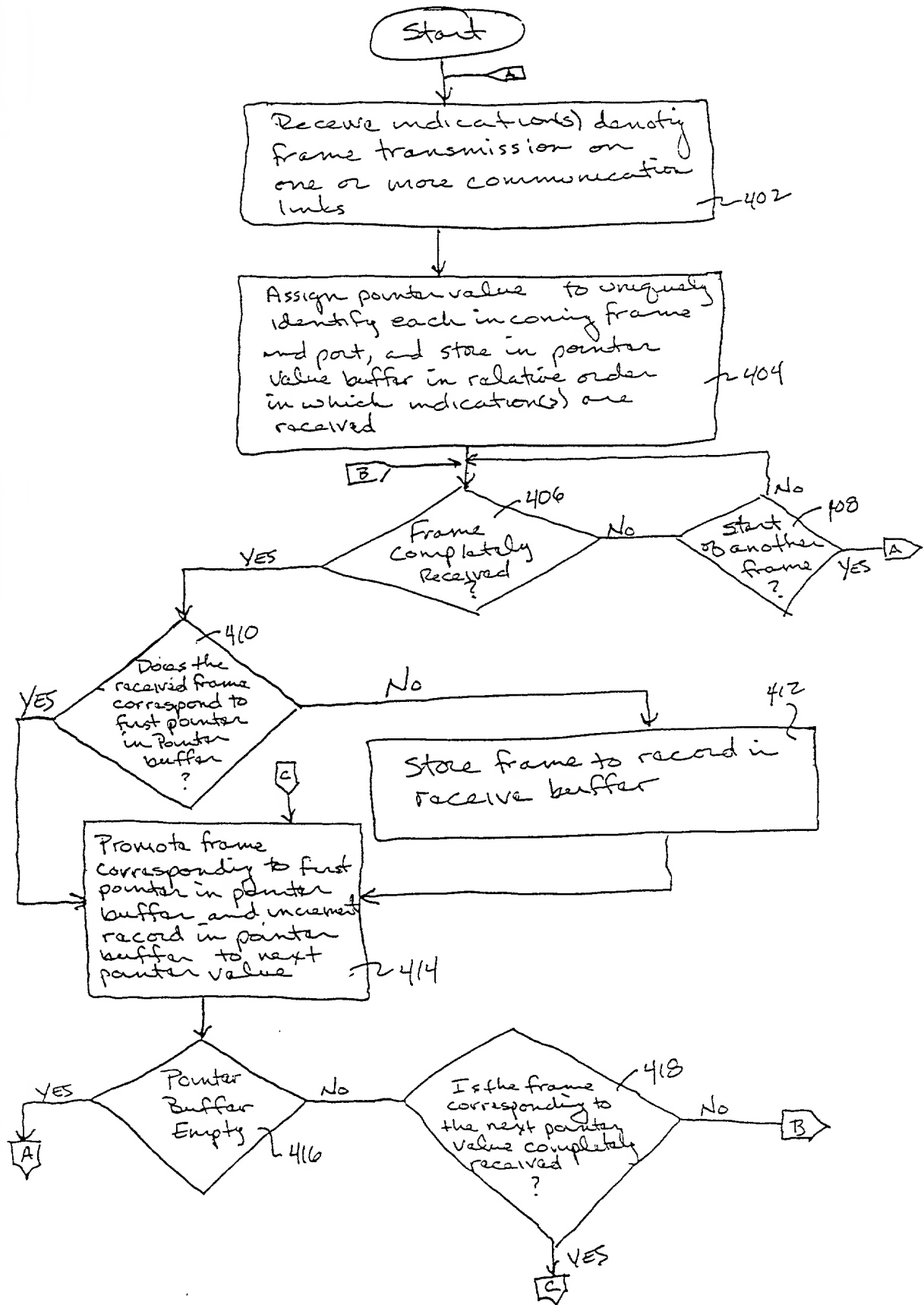


FIG. 4

400



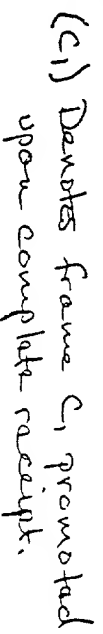


FIG. 6

600

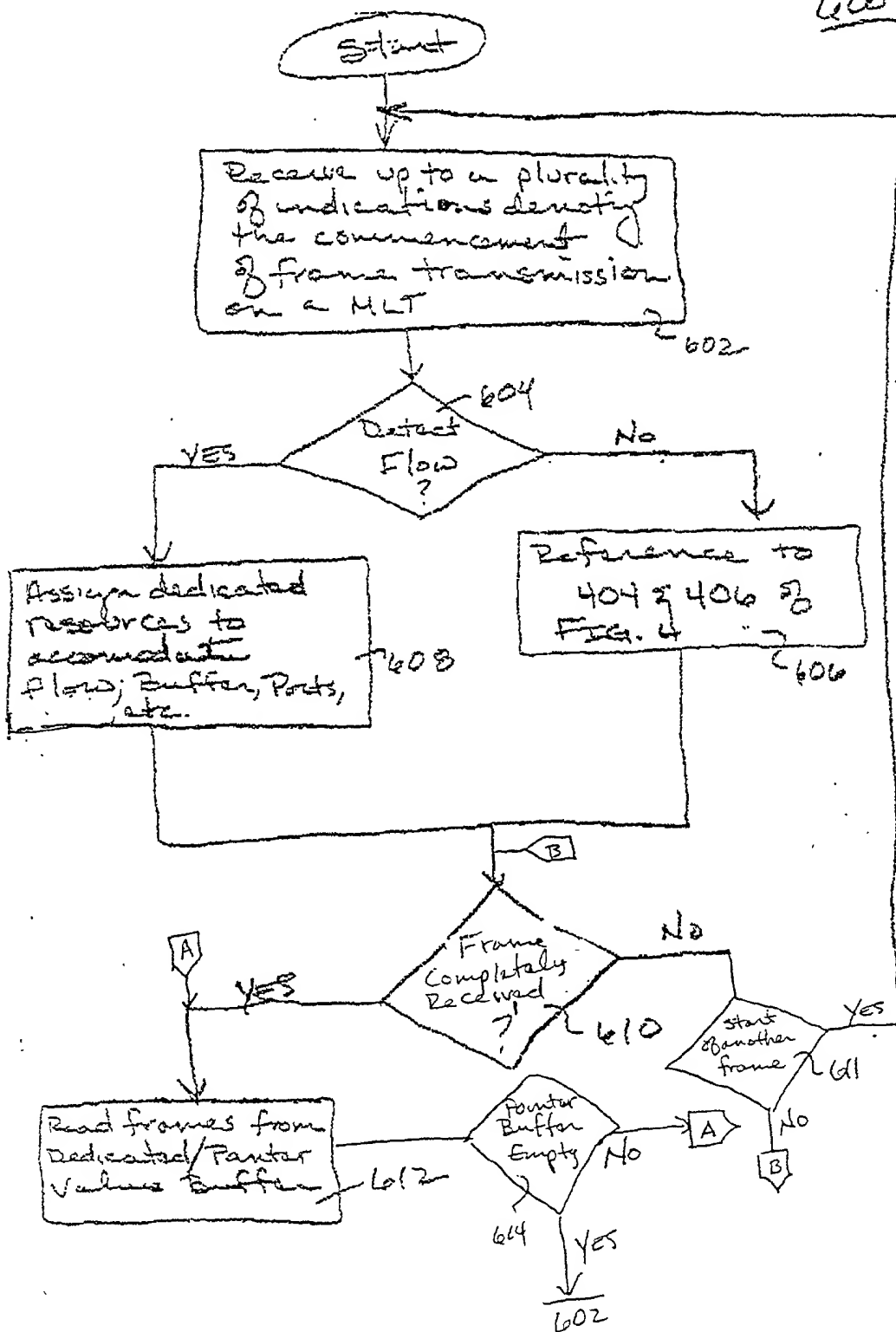
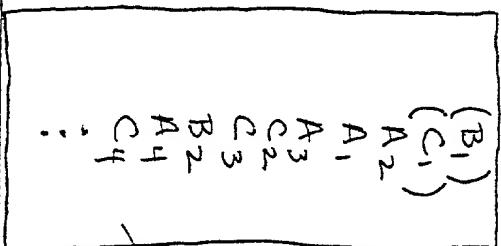
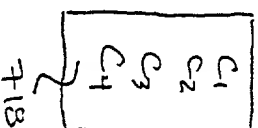
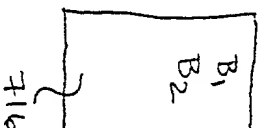
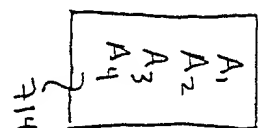
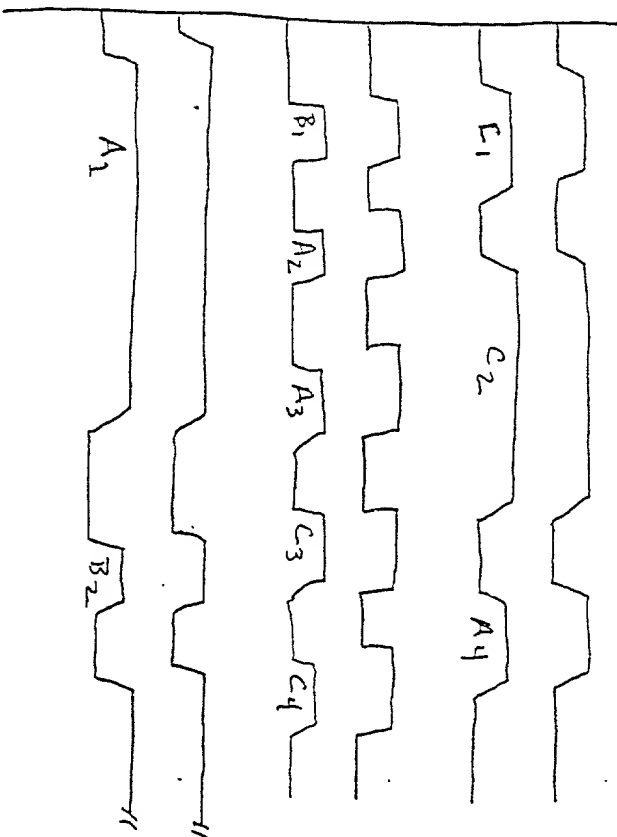


FIG. 7

700

RX-DV₁
702
RX-D₁
704
RX-DV₂
706
RX-D₂
708
RX-DV₃
710
RX-D₃
712



750

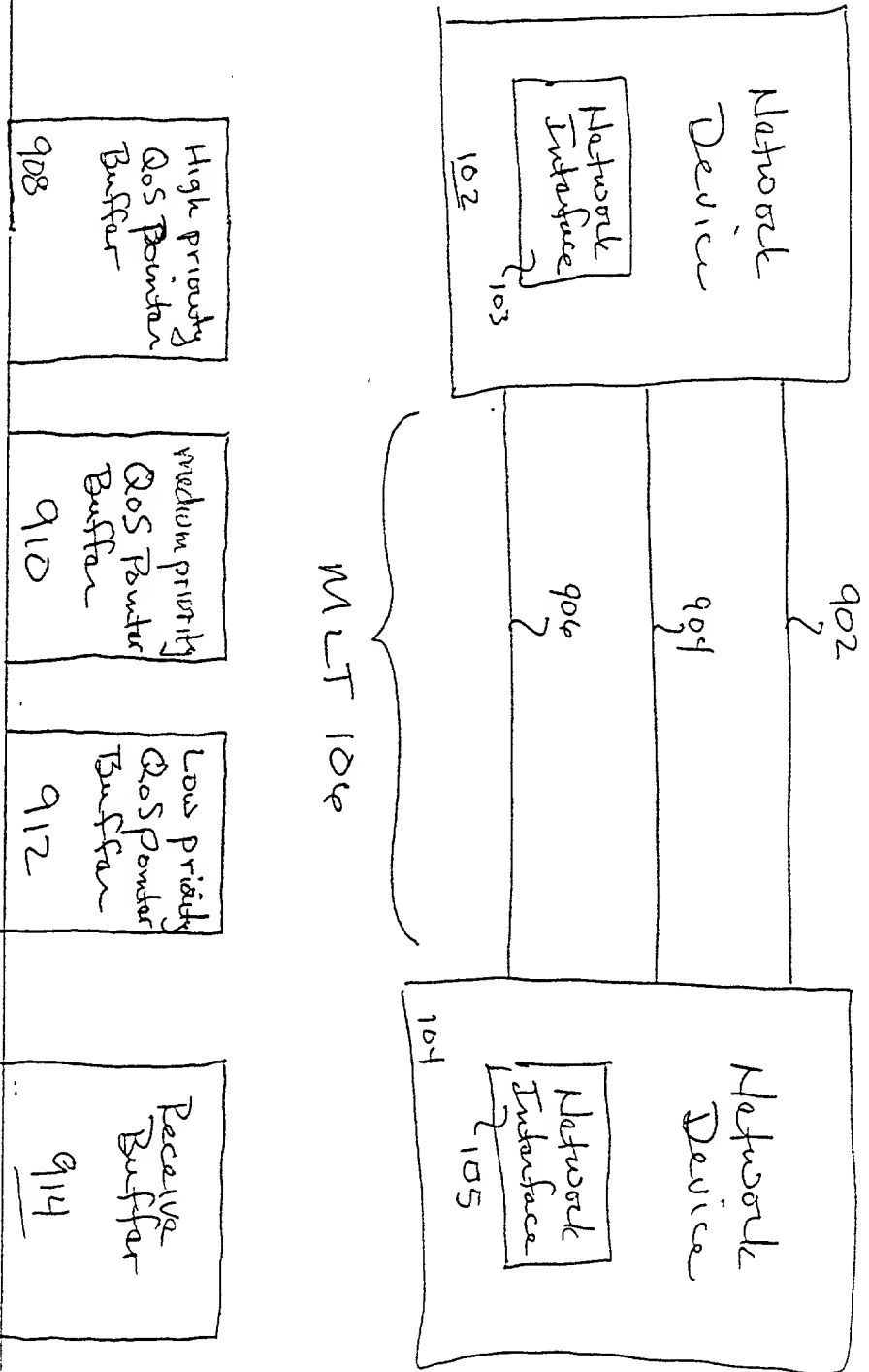


High-Speed
Poustar
Buflar
812

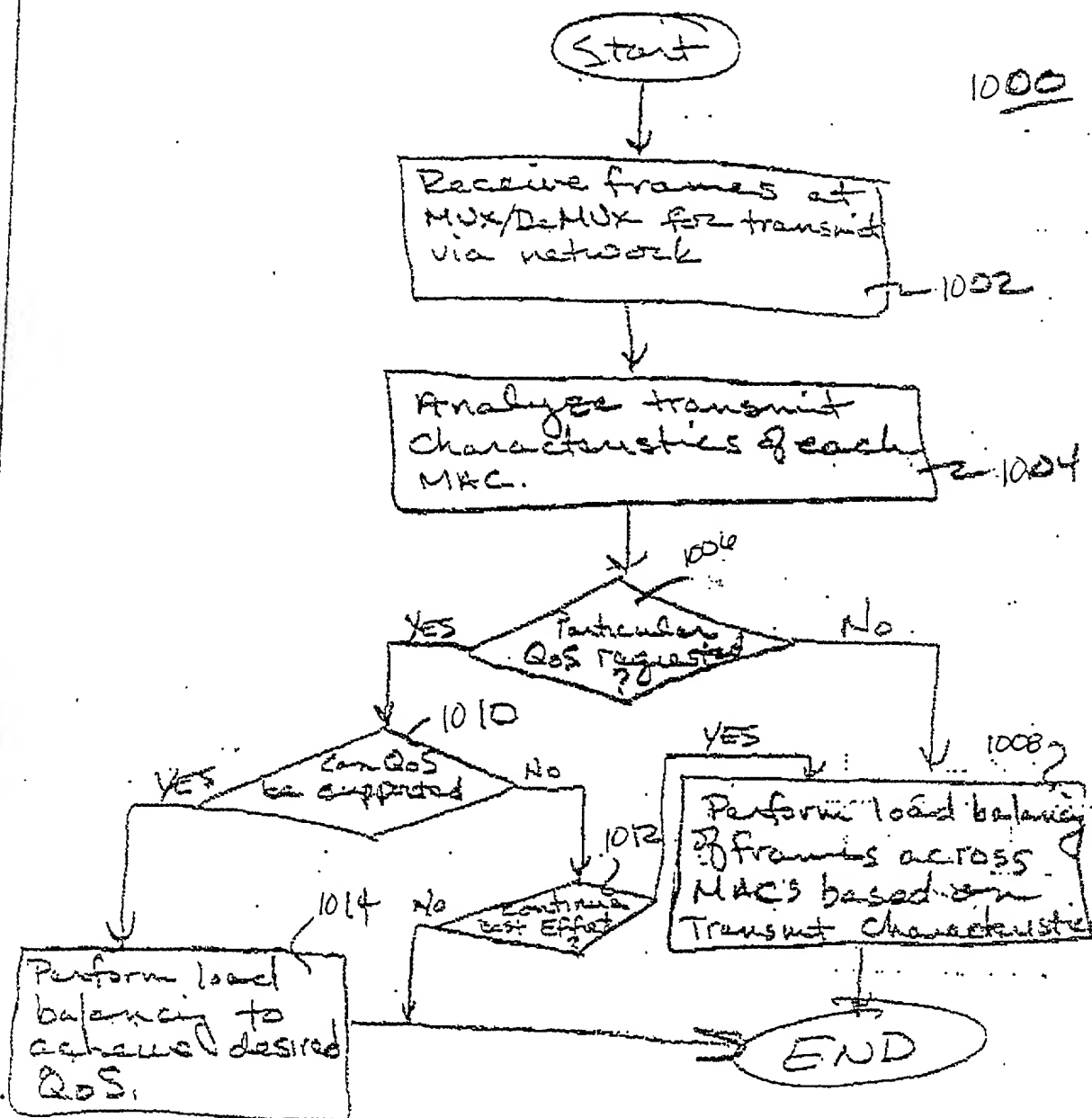
Low-Speed
Penstar
Bufer
814

Receive
Buffas
816

FIG. 9



2025 RELEASE UNDER E.O. 14176

FIG. 10

DECLARATION AND POWER OF ATTORNEY FOR PATENT APPLICATION

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below, next to my name.

I believe I am the original, first, and sole inventor (if only one name is listed below) or an original, first, and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled

**METHOD AND APPARATUS FOR PRESERVING FRAME ORDERING ACROSS AGGREGATED
LINKS SUPPORTING A PLURALITY OF TRANSMISSION RATES**

the specification of which

XX is attached hereto.

 was filed on _____ as

United States Application Number _____

or PCT International Application Number _____

and was amended on _____.

(if applicable)

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claim(s), as amended by any amendment referred to above.

I acknowledge the duty to disclose all information known to me to be material to patentability as defined in Title 37, Code of Federal Regulations, Section 1.56.

I hereby claim foreign priority benefits under Title 35, United States Code, Section 119(a)-(d), of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:

<u>Prior Foreign Application(s)</u>			<u>Priority Claimed</u>	
(Number)	(Country)	(Day/Month/Year Filed)	Yes	No
_____	_____	_____	_____	_____
(Number)	(Country)	(Day/Month/Year Filed)	Yes	No
_____	_____	_____	_____	_____
(Number)	(Country)	(Day/Month/Year Filed)	Yes	No
_____	_____	_____	_____	_____

I hereby claim the benefit under title 35, United States Code, Section 119(e) of any United States provisional application(s) listed below

_____ (Application Number)	_____ Filing Date
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_____ (Application Number)	_____ Filing Date
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I hereby claim the benefit under Title 35, United States Code, Section 120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, Section 112, I acknowledge the duty to disclose all information known to me to be material to patentability as defined in Title 37, Code of Federal Regulations, Section 1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application:

<u>09/13/141</u> (Application Number)	<u>Aug. 7, 1998</u> Filing Date	<u>Pending</u> (Status -- patented, pending, abandoned)
_____ (Application Number)	_____ Filing Date	_____ (Status -- patented, pending, abandoned)

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I hereby declare that all statements made herein of my own knowledge are true and that all
statements made on information and belief are believed to be true; and further that these statements
were made with the knowledge that willful false statements and the like so made are punishable by
fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that
such willful false statements may jeopardize the validity of the application or any patent issued
thereon.

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Title 37, Code of Federal Regulations, Section 1.56
Duty to Disclose Information Material to Patentability

(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is cancelled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

(1) Prior art cited in search reports of a foreign patent office in a counterpart application, and

(2) The closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.

(b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and

(1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim; or

(2) It refutes, or is inconsistent with, a position the applicant takes in:

(i) Opposing an argument of unpatentability relied on by the Office, or

(ii) Asserting an argument of patentability.

A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

(c) Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:

(1) Each inventor named in the application;

(2) Each attorney or agent who prepares or prosecutes the application; and

(3) Every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application.

(d) Individuals other than the attorney, agent or inventor may comply with this section by disclosing information to the attorney, agent, or inventor.